

Serial No. 10/801,273

Amend. In Resp. to Off. Act. Of May 4, 2009

UTILITY PATENT

B&D No. JK01488A

REMARKS

Applicants have amended Claim 1. Currently in the above-identified application are Claims 1-7 and 34-35.

The Examiner rejected Claims 1-7 and 34-35 under 35 USC § 112, second paragraph, as being indefinite. In particular, the Examiner is questioning how portion 644P is always above the arbor when beveled. In response, Applicants have amended Claim 1 to explicitly state that portion 644P is above the arbor "when the blade is substantially perpendicular to the horizontal support surface," i.e., when the blade is at the 0° bevel angle of FIG. 6.

The Examiner rejected Claims 1, 4 and 6-7 under 35 USC § 103(a) as being unpatentable over US Patent No. 5,357,834 ("Ito") in view of US Patent No. 5,850,698 ("Hurn"). The Examiner also rejected Claims 2-3 and 34-36 under 35 USC § 103(a) as being unpatentable over Ito in view of Hurn, and further in view of US Patent No. 3,611,859 ("Avakian") or US Patent No. 2,925,104 ("Allemanann"). In addition, the Examiner rejected Claim 5 under 35 USC § 103(a) as being unpatentable over Ito and Hurn, and further in view of US Patent No. 6,615,701 ("Hollinger"). Reconsideration and withdrawal of these rejections are respectfully requested.

Applicants note that Ito, Hurn, Avakian and Hollinger, whether individually or in combination, do not show a lowermost portion of the gear housing intersected by the longitudinal axis of the motor shaft that is higher than the arbor. The Examiner argued that several lines can be drawn from the shaft intersecting the gear housing, and that those portions are higher than the arbor.

However, such portion is not the lowermost portion. Claim 1, as amended, defines the lowermost portion as being "the portion of the gear housing intersected by the longitudinal axis

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of the motor shaft closest to the support surface when the cutting assembly is in the lowered position." Being that none of the lines drawn by the Examiner in the modified figures extend along the longitudinal axis of the motor shaft, those intersected portions cannot be the claimed portion.

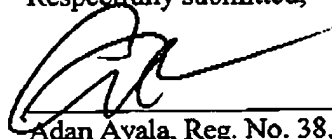
By contradistinction, Claim 1 calls for (a) "the lowermost portion being the portion of the gear housing intersected by the longitudinal axis of the motor shaft" and (b) "the outer lowermost exposed gear housing portion [being] higher than the arbor when the blade is substantially perpendicular to the horizontal support surface."

Such arrangement allows for increased cutting capacity, allowing a user to cut bigger or taller workpieces without increasing the blade size. Because the cited references do not show, teach or suggest such arrangement, they cannot render unpatentable Claim 1 and its dependent claims.

In view of the foregoing, all the claims are patentable and the application is believed to be in condition for formal allowance. Reconsideration of the application and allowance of Claims 1-7 and 34-35 are respectfully requested.

The Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



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